



Justice Reinvestment Coordinating Council



Meeting Minutes

August 18, 2015

The Justice Reinvestment Coordinating Council meeting was held on Tuesday, August 18, 2015 at the Department of Legislative Services Building, 90 State Circle, Annapolis, Maryland, 21401. The meeting was called to order at 2:18 PM by Christopher Shank, Executive Director of the Governor's Office of Crime Control & Prevention (GOCCP), who presides as the Chairman for the Justice Reinvestment Coordinating Council (the Council). The meeting was attended by the following Council members: Christopher Shank, GOCCP; Secretary Sam Abed, Department of Juvenile Services (DJS); Caryn Aslan, Job Opportunities Task Force (JOTF); Delegate Erek Barron; Sheriff Troy Berry, Charles County Sheriff's Office; LaMonte Cooke, Queen Anne's County Detention Center; Paul DeWolfe, Office of the Public Defender (OPD); Delegate Kathleen Dumais; David Eppler, Attorney General's Office; Robert Green, Montgomery County Department of Correction and Rehabilitation; Senator Michael Hough; the Honorable Diane Leasure, Howard County Circuit Court (Ret.); Delegate Michael Malone; Tim Maloney, Attorney; Senator Nathaniel McFadden; the Honorable Joseph Murphy, Maryland Court of Appeals (Ret.); Senator Douglas Peters; Judy Sachwald, Department of Public Safety and Correctional Services (DPSCS); Scott Shellenberger, Baltimore County State's Attorney's Office; and Delegate Geraldine Valentino-Smith.

This meeting was also attended by multiple guests to include: Brian Alexander, Governor's Office for Children; Kim Barranco, Baltimore City Criminal Justice Coordinating Council (CJCC); Tammy Brown, Baltimore City State's Attorney's Office; Russell Butler, Maryland Crime Victims Resource Center; Maylon Campher, Department of Labor, Licensing and Regulation; Philip Caroom, Maryland Alliance for Justice Reform (MAJR); George Chambers, Digital Risers; Candy Clark, MAJR; Amy Devadas, Department of Legislative Services (DLS); Leonard Engel, Crime and Justice Institute; Ricardo Flores, OPD; Bill Gaertner, Gatekeepers; Rebecca Gardner, MAJR; Madison Getty, GOCCP; Vincent Greco, MAJR; Lea Green, Maryland CURE; Darienne Gutierrez, Pew Charitable Trusts; Elizabeth Hayden, GOCCP; Don Hogan, GOCCP; Toni Holness, ACLUMaryland; Charles Holloway, Project M.E.N.D.; Jessica Honke, NAMI Maryland; Rachel Kesselman, GOCCP; Lisa Klingensmaier, Maryland Alliance for the Poor; Dorothy Lennig, House of Ruth; Ryan Lhotsky, Office of Senator Robert (Bobby) Zirkin; Richard Marks, ISHR; Ellie McMullen, DPSCS/DPP; Natasha Mehu, Maryland Association of Counties; Kelley O'Connor, Maryland Judiciary; Garrett O'Day, Maryland Catholic Conference; Suzanne O'Hatnick, Interfaith Action for Human Rights (IAHR); John Olszewski, SAS; Suanne Pelz, Maryland Judiciary; Casey Pfeifer, Pew Charitable Trusts; Shirleen Pilgrim, Department of Legislative Services (DLS); Marcy Plimack, DPSCS; Scot Pullen, Howard County Department of Corrections; Felicity Rose, Crime and Justice Institute; Jim Rose, MAJR; Susan H. Rose, MAJR; Melissa Rothstein, OPD; Julie Schneide, Office of Delegate Kathleen Dumais; Jennifer E. Smith, University of Maryland Carey School of Law; Drew Snyder, Maryland Judiciary; David Soulé, Maryland State Commission on Criminal Sentencing Policy; Cara Sullivan, GOCCP; Barbara Thomas, MAJR; Zoe Towns, Pew Charitable Trusts; Connie Utada, Pew Charitable Trusts; Delegate Joseph



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Vallario; Maurice Vann, City University of New York; Keith Wallington, Justice Policy Institute; and Jeffrey Zuback, GOCCP. A sign-in sheet was circulated to maintain a record of attendance.

I. Welcome

The meeting was called to order at 2:18 PM by Mr. Shank as he welcomed everyone to the Justice Reinvestment Coordinating Council “Community Corrections Drivers” meeting. Mr. Shank called for a motion to approve the meeting minutes from the last JRCC meeting; the meeting minutes were approved. Mr. Shank thanked the Council members and The Pew Charitable Trusts for their work on these efforts and provided a brief overview of the agenda.

II. Pew Charitable Trusts Presentation: Maryland Data Analysis Part II, Community Corrections Drivers

Mr. Shank turned the meeting over to Ms. Felicity Rose, Senior Associate for the Crime and Justice Institute, who provided an overview of the data that was previously discussed on July 29, 2015 in reference to the Maryland prison population. Ms. Rose addressed some of the questions that were raised during the last meeting.

Follow-up

Ms. Rose outlined issues related to admissions per capita by county, the length of stay for second degree assaults, and the racial disparity in the prison population.

In regard to the presentation slide, “Black Offenders Serve Longer in Prison than White Offenders,” Ms. Aslan asked if there may be any other explanation for these numbers besides race. Ms. Rose stated that the sentence disparity could be a criminal history issue or that parole decisions could be based on a risk assessment. She included that some risk assessments may include factors that are racially biased. Delegate Barron noted the data mirrors some of the same data seen in the federal system, and asked if Pew could look at other stages in the criminal justice process that impact sentencing decisions. Ms. Rose said they are limited in what data they have access to, but they will look into this further. Mr. Shank pointed out that the legislation establishing the Justice Reinvestment Coordinating Council tasks the Council with examining disproportionate minority contact, and said that the Council would like to hear perspectives on the issue at the upcoming stakeholder advisory meetings.

Secretary Abed stated that it might be beneficial to look at the risk assessment tool that the Parole Commission uses and subsequent scores to explore whether there are any underlying issues with the tool. Ms. Rose said they do not have access to the risk score, but they are working with the Parole Commission to get access to their risk assessment tool.

Mr. Green asked if there was a way to look at data on the Latino population. Ms. Rose responded that DPSCS data does not capture this population. Mr. Green commented that not capturing the Hispanic population is a missing piece in the data collection process. Mr. Cooke added that Hispanic data may be collected at the local level.



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Mr. DeWolfe mentioned that many are curious about the fact that Baltimore City appears to be the driver of reduction in prison compared to the rest of the state. He asked if the length of stay in pretrial detention would potentially explain the reduction of admissions into prison. Ms. Rose said they have not looked at this specifically, and it may not apply to the data because the data looks at individuals who have been in prison for at least 12 months.

Community Corrections Data

After reviewing data from the previous meeting, Ms. Rose began the presentation on drivers of community corrections in the Maryland criminal justice system. Sources for the data came from the Maryland Department of Public Safety and Correctional Services (DPSCS), Division of Parole and Probation (DPP). The data included Offender-Based State Correctional Information System (OBSCIS) snapshots from August 2005-2012 and Offender Case Management System (OCMS) snapshots from August 2013-2014. Ms. Rose outlined community corrections active population data, discharge data, and time served data.

Community Corrections Active Population

According to the data presented, there has been a 5% decline in the community supervision population in the last decade, and probationers make up 80% of the community supervision population. Additionally, 71% of the probation population and 62% of the post-release population are moderate or low-risk.

Secretary Abed inquired about how post-release supervision level is determined. Ms. Sachwald responded that the underlying offense is critical for determining the supervision level of sex offenders, but all other offenders are evaluated by a risk proxy. Currently, the risk proxy that is used is not validated, but they are working on transitioning to a more validated measure.

Mr. Shellenberger asked which agency makes the decision surrounding an individual's parole or probation, and what risk-factor they use to make the decision. Ms. Sachwald said the Parole Commission makes the release decision, and DPP determines how they will be supervised in the community.

Community Corrections Discharges

Overall, probation success rates have increased in the last decade, a phenomenon largely driven by the increase in Baltimore City. While just less than 40% of community supervision cases fail supervision, less than 20% of probationers, parolees, and offenders on mandatory release supervision are convicted of a new crime while on supervision. Further, about 60% of unsuccessful cases do not involve a new criminal conviction.

Senator Hough requested an explanation regarding the success of parole in Baltimore City. Ms. Sachwald said it is a combination of things, including the greater availability of drug treatment, expansion of mental health courts in Baltimore City, and a greater understanding by judges about the impact that recovery plays in sentencing.



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Ms. Aslan asked Ms. Sachwald if other wraparound services, such as job training, also helped with these numbers. Ms. Sachwald said all of those services make a difference, but communities within the vicinity of the programs benefit the most. Ms. Sachwald believes that if services were available where they are currently absent then there would be better outcomes for these communities.

Ms. Aslan also asked why the VPI offenders were more likely to fail than offenders under other types of supervision. Ms. Rose said that higher rates of failure are to be expected because VPI offenders are under more intense supervision and they are more likely to be caught for technical violations than offenders under other supervision types.

Mr. Shank wanted to know if the items identified could be translated into “bed days” and overall costs for the system. Ms. Rose said that they do not currently have a figure of the cost because failures are not necessarily being incarcerated but Pew was going to try to link to prison admission data.

Delegate Valentino-Smith inquired about the breakdown of technical violations. Ms. Rose said they do not know what the technical violations are because the data does not break it down. It could be absconding, failing a drug test, missing a curfew, or committing a new offense. Delegate Valentino-Smith followed up by asking if there was any other way to look at technical violations. Ms. Rose said that they will work on this and the Council could potentially incorporate it as a policy recommendation.

Senator Hough was interested in how Maryland’s numbers compare to other states. Ms. Rose said that it is hard to make comparisons across states. She continued by stating there is a fairly large community supervision population in Maryland, although this is not necessarily good or bad.

Time Served On Community Supervision

Pew’s analysis showed that low-risk probationers in Maryland serve approximately the same amount of time on supervision as high-risk probationers, although time spent on probation varies by jurisdiction. Low-risk offenders on parole and mandatory release supervision serve roughly 2.5 times as long as their high-risk counterparts. Also, offenders on parole and mandatory release supervision are serving longer than they did decade ago.

Secretary Abed asked if extension of parole is a possible sanction. Ms. Rose clarified that if someone has many small violations then the judge may keep them on supervision for a longer period of time.

Ms. Rose pointed out that low-risk offenders serve almost as long on probation as high-risk offenders. Ms. Aslan inquired why this is the case. Ms. Rose said probation decisions are mostly driven by their sentence, and they are looking into that.

Mr. Shank wanted to know more about what the research shows concerning supervision of low-risk offenders. Ms. Rose responded that giving low-risk offenders too much supervision can have a criminogenic effect.

Secretary Abed asked if it is possible for a VPI offender to change supervision levels. Ms. Rose said one could move from one supervision level to another without their case closing. The data shows the last supervision level of an offender before their case closed, and it is possible that they could have started at a higher supervision level and moved to a lower level.



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Mr. Green commented that there were many different policy decisions made over the course of Pew's data collection period that could help explain the numbers. Mr. Shank asked Ms. Rose to explain the statutory review process that Pew is completing. Ms. Rose said they are looking at the statutory review and the sentencing guidelines, as well as practices and trends. This qualitative information will be presented at the next meeting.

Break

Mr. Shank stated at 3:31 PM that there would be a short break. He resumed the meeting at 3:44 PM.

What Works in Reducing Recidivism?

Ms. Rose continued her presentation alongside Mr. Len Engel, Managing Associate for Policy at the Crime and Justice Institute. They provided an overview of the research incarceration and what works to reduce recidivism. They identified the "risk, need, responsivity" model as a more successful approach than incarceration to reduce recidivism among offenders. This model focuses on high-risk offenders, targets criminogenic needs, and addresses programming barriers. Ms. Rose and Mr. Engel also highlighted the use of sanctions and incentives to respond to behavior and frontloading resources for offenders exiting prison. They stressed the importance of incorporating treatment into supervision and recommended continuous monitoring of the quality, fidelity, and outcomes of recidivism reduction programs.

After examining the "risk" principle of recidivism reduction, Ms. Aslan asked if there are different results in terms of providing job training, treatment services, etc. through DPP or a community based organization. Mr. Engel did not know of any studies that analyzed that dynamic. Ms. Aslan asked if individuals would be more successful if services were in the community rather than having to go a center to report. Mr. Engel said that treatment is more effective in the community than prison.

Mr. Cooke commented that the part of the State an individual lives in would determine which resources are available to them. He maintained that in rural areas there is a lack of transportation, and some areas are very rigid in the way they believe offenders should be handled. Mr. Engel said the purpose over the next six to eight months is to educate stakeholders on recidivism reduction strategies.

During the discussion about sanctions and incentives, Mr. Shellenberger asked for verification that VPI was meeting the standards according to "swift, certain, and severe" punishment. Ms. Rose responded that VPI punishment might be swift and certain, but it is not always proportional in severity. Mr. Shellenberger followed by inquiring about what a violent offender might respond to besides prison, and asked who is in charge of making that decision. Secretary Abed stated that, ultimately, the scientific evidence says violating the terms of supervision should be punished and good behavior should be rewarded, as long as the punishment occurs within a swift time frame. He followed that in order to maintain proportionality, graduated sanctions are best, particularly for offenders who commit technical violations.

Judge Murphy commented on the nature of judicial responses in sanctioning decisions, and he believes that most judges in Maryland want to know when there has been a violation rather than leave the



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decision up to the DPP officers. Mr. Engel acknowledged that states are tackling the sanctioning process different ways, and provided Utah as an example where judges are given monthly reports regarding violations. Mr. Green added to Judge Murphy's comment that, from a programmatic standpoint, this type of system can work as long as there is adequate communication between the judges and DPP agents. Mr. DeWolfe stated that he believed ensuring due process was an important consideration in the sanctioning process.

Delegate Dumais noted that it is important to look at the local population levels and pretrial processes, rather than simply frontload resources for community supervision. Mr. Shank mentioned that they have requested data from local jurisdictions, but it is important to note that the quality of data is not the same as Pew has received from the DOC. Delegate Barron emphasized the importance of examining the pretrial process and pointed out that pretrial detention is a major driver in racial disparities.

Delegate Valentino-Smith inquired if Pew had any information on what other states are doing in relation to the public health sector and the criminal justice system, particularly with respect to opportunities provided by coverage in the public health sector in Maryland. Specifically, she wanted to know if other states have mandated a greater availability of substance abuse and mental health treatment, and how coverage has an effect on criminal justice system. Mr. Engel replied that said they have not seen the outcomes of such policies as of yet.

III. Council Calendar and Next Steps

Mr. Shank thanked Pew for their presentation and the Council for such a robust discussion. He announced that the first stakeholder meeting will be held on September 10, 2015. He stated that the stakeholder meetings are intended to parallel the JRCC meetings and obtain feedback from local communities about solutions for the justice system. He informed everyone that the next meeting will focus on a review of the system and how Maryland's practices compare to evidence-based practices. The meeting adjourned at 5:17 PM.

IV. Next Meeting

The next JRCC meeting will be held on Friday, September 11, 2015 at 2:30 PM until 5:30 PM in Annapolis, Maryland in the Joint Hearing Room of the Legislative Services Building.